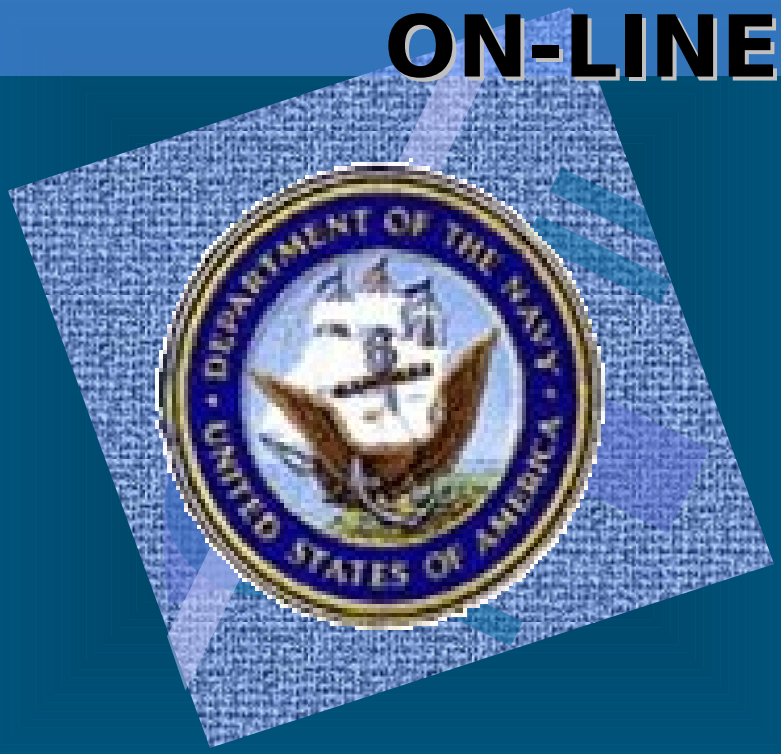
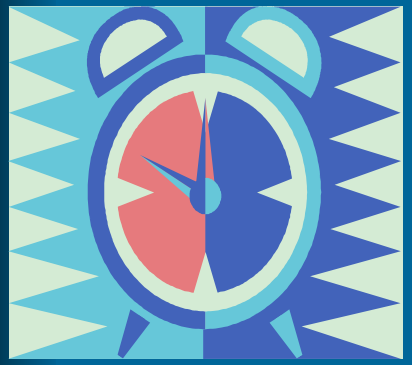
HUMAN RESOURCES OFFICE (HRO), NORFOLK ON-LINE TRAINING



PREVENTION OF SEXUAL HARASSMENT

HOW DOES THE ON-LINE TRAINING WORK?



- This PowerPoint presentation training will take less than 30 minutes to complete.
- This presentation will automatically advance. If you find that it is too slow, you can advance by clicking the mouse or using your page up/down buttons.

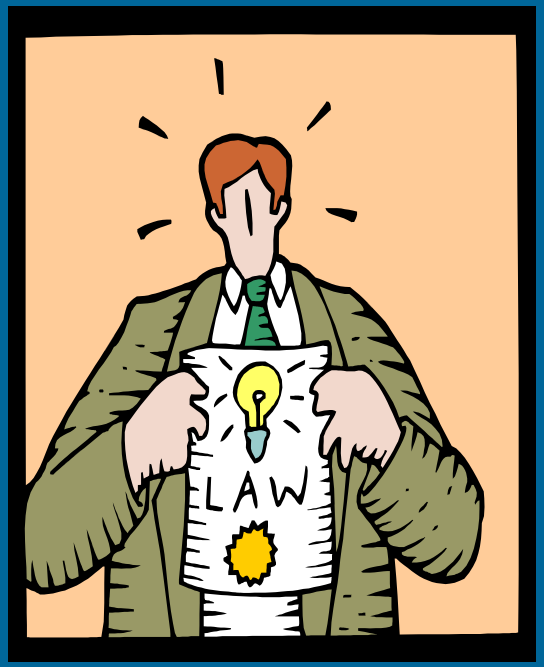
WHY PREVENTION OF SEXUAL HARASSMENT TRAINING?

- NAVY DIRECTIVES REQUIRE ALL EMPLOYEES (CIVILIAN AND MILITARY) RECEIVE **ANNUAL** PREVENTION OF SEXUAL HARASSMENT (POSH) TRAINING.

TRAINING OBJECTIVES

- Identify Subtle Sexual Harassment
- Understand Definition of “Quid Pro Quo” Harassment
- Understand Definition of “Hostile Work” Harassment
- Explain the Court’s Viewpoint of Perception over Intention
- Understand Third Party Sexual Harassment

WHAT IS SEXUAL HARASSMENT?



- ***Sexual Harassment***

  is a form of sex discrimination which is a violation of Title VII of the Civil Rights Act of 1964.

SEXUAL HARASSMENT

- **The EEOC defines sexual harassment as follows:**

- Unwelcome sexual advances, requests for sexual favors, and verbal or physical conduct of a sexual nature constitute sexual harassment when:

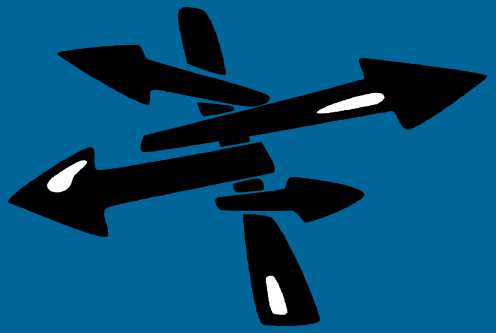
-- Submission to such conduct is made explicitly or implicitly a term or condition of employment;

-- Submission to or rejection of such conduct by an individual is used as a basis for an employment decision affecting individuals;

-- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment.

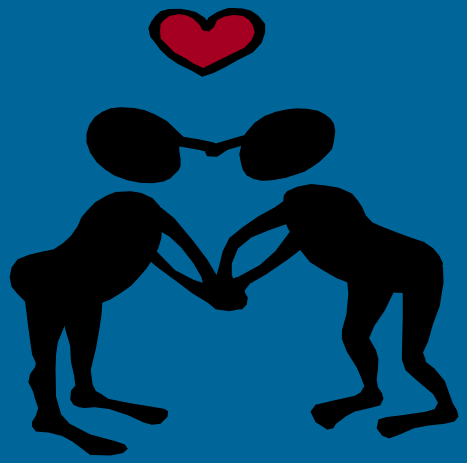
See EEOC's web page at http://www.eeoc.gov/

VICTIMS OF SEXUAL HARASSMENT



- **The victim may be a *woman* or a *man*. The victim does not have to be of the opposite sex. The victim does not have to be the person harassed but could be anyone affected by the offensive conduct, which is referred to as a "third party."**

UNDERSTANDING THIRD PARTY OFFENSE



- **Remember! If your behavior (verbal or non-verbal) with someone else is sexual in nature and such behavior results in others in the vicinity being made to feel threatened, intimidated, or uncomfortable, your behavior could be "perceived" as creating a hostile work environment.**

WOULD YOU RECOGNIZE SEXUAL HARASSMENT?

VERBAL

- Sexual stories or questions about a person's sexual experiences or preferences
- Jokes
- Using "four-letter" obscenities
- Inappropriately commenting on a person's body and/or appearance
- Asking for dates
- Making suggestive sounds or whistling
- Calling someone names such as honey, doll, babe; stud, hunk

NON-VERBAL

- Staring at a person
- Following or blocking a person
- Showing sexually explicit pictures, cartoons or other visuals
- Making suggestive gestures
- Sending unwanted notes or other material
- Giving unwanted personal gifts
- Exposure

PHYSICAL

- Touching a person
- Leaning over a person
- Standing too close to a person
- Brushing up against a person
- Kissing
- Caressing
- Pinching
- Actual/Attempted Rape

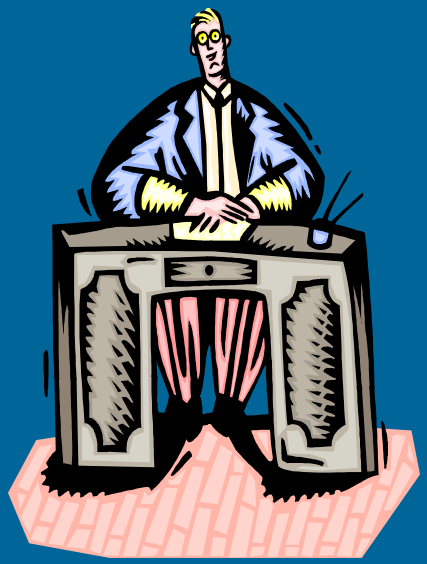
TWO TYPES OF SEXUAL HARASSMENT

- EEOC guidelines define two types of sexual harassment:

1. Quid Pro Quo
2. Hostile Environment

QUID PRO QUO

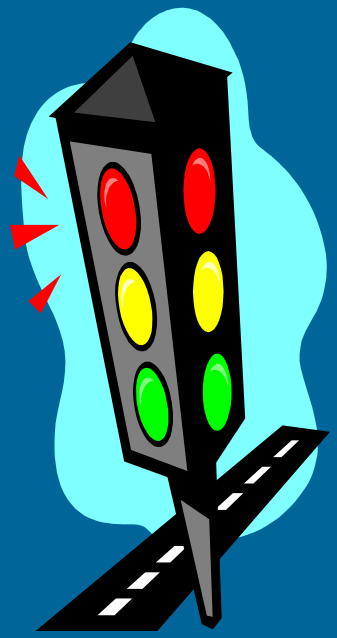
- **“Quid Pro Quo”** is a Latin phrase which means “this for that.” It is a legal term used to define an arrangement where sexual favors are solicited from a supervisor/manager (someone in authority) in exchange for job benefits and/or other compensation. Also, Quid Pro Quo would apply anytime job benefits and/or other compensation are withheld from an employee because of his/her rejection of requests for sexual favors or for reacting negatively towards sexually-oriented behavior.



WHAT ARE TANGIBLE EMPLOYMENT ACTIONS?

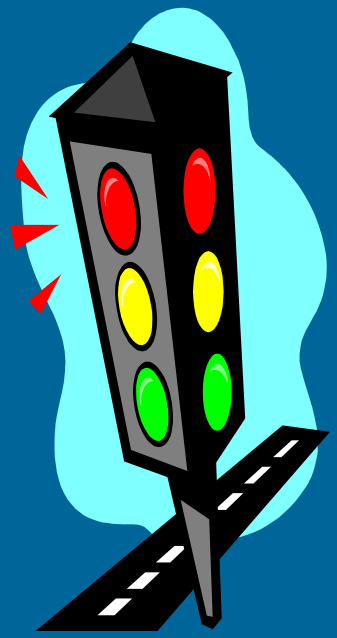
- Hiring & Firing;
- Promotion and Failure to Promote;
- Demotion;
- Undesirable Reassignment;
- A Decision Causing a Significant Change in Benefits;
- Compensation Decisions; and
- Work Assignment.

HOSTILE WORK ENVIRONMENT



- **“Hostile Work Environment”** is the most common type of sexual harassment. Very often the behavior is subtle. Hostile work environment occurs when conduct of a sexual nature (severe and pervasive) creates an environment that is intimidating, hostile or offensive to an individual, which interferes with that employee’s ability to come into the workplace and perform his/her duties.

HOSTILE WORK ENVIRONMENT



- *Pervasive* behavior is that which is widespread, common, or repeated. Behavior of a sexual nature is considered *severe* when it would be objectionable to a “reasonable person” within the circumstances.

WHAT EXACTLY IS THE "REASONABLE PERSON" STANDARD?

- **The "Reasonable Person" standard is a legal standard used to determine what behavior is offensive in a legal case involving sexual harassment. Keep in mind, that a Court gives more weight to the victim's *perception* rather than the perpetrator's *intention*. The question asked is: Would the behavior substantially affect the work environment or psychological well-being of a reasonable female/male from the perspective of the victim?**

WHAT FACTORS DETERMINE WHETHER AN ENVIRONMENT IS HOSTILE?

Some questions to be asked:

- Did the conduct unreasonably interfere with an individual's work performance?
- Did the conduct create an intimidating, hostile, or offensive working environment?
- Was the conduct verbal or physical or both?
- How frequently was the conduct repeated?
- Who is the alleged harasser (a co-worker, supervisor, or non-employee)?
- If the harasser was a supervisor, did the individual suffer with respect to a term, condition, or privilege of his/her employment; i.e., a tangible employment action?
- Did others join in perpetrating the harassment?
- Was the harassment directed at more than one individual?

- **Remember – No one factor controls. An assessment is made based upon the totality of the circumstances.**

CAN ONE INCIDENT CONSTITUTE SEXUAL HARASSMENT?

- In “quid pro quo” cases, the answer is yes **IF** it is linked to the granting or denial of a tangible employment action and/or benefit.
- In contrast, unless the behavior is pervasive and/or severe, a single incident or isolated incidents of offensive sexual conduct or remarks generally **DO NOT** create a “**hostile work environment**.” A hostile work environment claim generally requires a showing of a pattern of offensive conduct. However, a single incident involving touching/physical contact may be sufficient to constitute a Title VII violation.

CAN VERBAL REMARKS CONSTITUTE SEXUAL HARASSMENT?

- **Answer: YES**

- **The Equal Employment Opportunity Commission (EEOC) will evaluate on a case-by-case basis the totality of the circumstances to determine the nature, the frequency, the context, and the intended target of the remarks. Relevant factors may include: (1) whether the remarks were hostile/derogatory; (2) whether the alleged harasser singled out the charging party; (3) whether the charging party participated in the exchange; and (4) the relationship between the charging party and the alleged harasser.**

SEXUAL HARASSMENT IS COSTLY

- **Causes Emotional Distress**
- **Lowers Productivity**
- **Lowers Morale**
- **Increases Employee Turnover Rates**
- **Increases Absenteeism**
- **Inhibits Growth and Creativity**

SEXUAL HARASSMENT LIABILITY

- **When harassment culminates in a tangible employment action, the employer CANNOT raise an affirmative defense.**

- **When harassment by a supervisor creates an unlawful "hostile work" environment but does not result in a tangible employment action, the employer can raise an affirmative defense to liability or damages, which it must prove by a preponderance of the evidence, consisting of two necessary elements:**

-- **The employer exercised reasonable care to prevent and correct promptly any harassment; and**

-- **The employee unreasonably failed to take advantage of any preventive or corrective opportunities provided by the employer or to avoid harm otherwise.**

SUPERVISORS/MANAGERS

- **It is your responsibility to ensure the following:**

1. **Your employees understand there is a ZERO tolerance for inappropriate behavior and the consequences of such behavior.**
2. **Your employees understand and know their rights and that policy statements are posted on official bulletin boards explaining their rights and the applicable time limits.**
3. **All employees receive annual Prevention of Sexual Harassment Training.**
4. **You conduct a prompt, thorough investigation into allegations of harassment and take appropriate corrective action when warranted.**
5. **Observe (look and listen) the work environment and talk to your employees. Never ignore questionable behavior.**
6. **Contact your servicing Labor Relations Specialist of HRO Norfolk or the EEO Programs Department, HRO Norfolk, for advice.**

Remember Supervisors: Your behavior has a way of setting the tone as to what level of behavior is expected and tolerated! You are an agent of the agency and may be held accountable for any type of harassment.

What To Do If You Are Sexually Harassed

- **Preventing sexual harassment is EVERYONE'S responsibility—both employees and supervisors!**
- **Tell the harasser that the conduct is unwanted and offensive and ask that it STOP.**
- **Record what happened, documenting who, where, when, what, and any possible witnesses**
- **Tell your supervisor or the harasser's supervisor about the incident.**
- **Contact the EEO Programs Department, HRO Norfolk, at (757) 445-1664 or DSN 565-1664.**

HOW DO I FILE A CHARGE OF SEXUAL HARASSMENT?

- **Employees have rights under two separate and distinct processes when raising an allegation of sexual harassment and can exercise their right to file under both.**

- **Under 29 CFR 1614, an employee, applicant for employment, or former employee, may bring an allegation of sexual harassment to the EEO Programs Department, HRO Norfolk, alleging discrimination on the basis of sex in violation of Title VII of the Civil Rights Act. Under this process, employees, former employees, or applicants who perceive they have been discriminated against must seek counseling on alleged discriminatory matters within 45 calendar days of the incident or personnel action.**

- **Title 10 Section 1561 requires that if an employee notifies command management of a sexual harassment allegation, the CO or OIC of that command will proceed with an investigation in accordance with Title 10 Section 1561. At the same time, the employee must be made aware of his/her right to pursue the discrimination complaint process under 29 CFR 1614 and of the 45-calendar day time limit within which to do so.**

- **Specific information regarding these two processes may be obtained from HRO Norfolk's web page at http://www.hronorfolk.navy.mil/ and click on the EEO link and/or the EEO On-line Training link.**

HOW TO DOCUMENT COMPLETION OF THIS ON-LINE TRAINING

- **In order to update the personnel training database, please go to http://www.donhr.navy.mil and click on training, then click on training support documents, then the managing your training history link. For further guidance please contact the Human Resources Service Center (HRSC) East Training Department at (757) 396-7871. Also, make sure your supervisor is made aware of your completion of this training.**

THANK YOU FOR YOUR PARTICIPATION